

(c) The chief financial officer or a position with duties similar to a chief financial officer.

(d) The general manager or a position with duties similar to a general manager.

(e) Any other employed management official of the gaming enterprise as documented by the Tribe as a primary management official.

■ 4. Add §§ 502.25 and 502.26 to read as follows:

§ 502.25 Gaming Enterprise.

Gaming Enterprise means the entities through which Tribe conducts, regulates, and secures gaming on Indian lands within such tribe's jurisdiction pursuant to the Indian Gaming Regulatory Act.

§ 502.26 Tribal Gaming Regulatory Authority (TGRA).

Tribal Gaming Regulatory Authority (TGRA) means the entity authorized by Tribal law to regulate gaming conducted pursuant to the Indian Gaming Regulatory Act.

PART 556—BACKGROUND INVESTIGATIONS FOR PRIMARY MANAGEMENT OFFICIALS AND KEY EMPLOYEES

■ 5. The authority citation for part 556 continues to read as follows:

Authority: 25 U.S.C. 2706, 2710, 2712.

■ 6. Amend § 556.4 by revising the introductory text to read as follows:

§ 556.4 Background investigations.

A Tribe shall perform a background investigation for each primary management official and for each key employee of the gaming enterprise.

* * * * *

■ 7. Amend § 556.6 by revising paragraph (a) to read as follows:

§ 556.6 Report to the Commission.

(a) When a Tribe licenses a primary management official or a key employee, the Tribe shall maintain the information listed under § 556.4(a)(1) through (14).

* * * * *

■ 8. Revise § 556.8 to read as follows:

§ 556.8 Compliance with this part.

All tribal gaming ordinances and ordinance amendments approved by the Chair prior to September 14, 2023 do not need to be amended to comply with this part. All future ordinance submissions, however, must comply.

PART 558—GAMING LICENSES FOR KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS

■ 9. The authority citation for part 558 continues to read as follows:

Authority: 25 U.S.C. 2706, 2710, 2712.

■ 10. Revise § 558.3 to read as follows:

§ 558.3 Notification to NIGC of license decisions and retention obligations.

(a) After a tribe has provided a notice of results of the background check to the Commission, a tribe may license a primary management official or key employee.

(b) Within 30 days after the issuance of the license, a tribe shall notify the Commission of its issuance.

(c) A key employee or primary management official who does not have a license after ninety (90) days shall not be permitted to perform the duties, functions, and/or responsibilities of a key employee or primary management official until so licensed.

(d) If a tribe does not license an applicant—

(1) The tribe shall notify the Commission; and

(2) Shall forward copies of its eligibility determination and notice of results, under § 556.6(b)(2) of this chapter, to the Commission for inclusion in the Indian Gaming Individuals Record System.

(e) If a tribe revokes a key employee or primary management official's license—

(1) The tribe shall notify the Commission; and

(2) Shall forward copies of its license revocation decision for inclusion in the Indian Gaming Individuals Record System.

(f) A tribe shall retain the following for inspection by the Chair or their designee for no less than three years from the date of termination of employment:

(1) The information listed under § 556.4(a)(1) through (14) of this chapter;

(2) Investigative reports, as defined in § 556.6(b) of this chapter;

(3) Eligibility determinations, as defined in § 556.5 of this chapter;

(4) Privacy Act notice, as defined in § 556.2 of this chapter; and

(5) False Statement notice, as defined in § 556.3 of this chapter.

■ 11. Revise § 558.4 to read as follows:

§ 558.4 Notice of information impacting eligibility and licensee's right to a hearing.

(a) If, after the issuance of a gaming license pursuant to § 558.3, the Commission receives reliable

information indicating that a key employee or a primary management official is not eligible for a license under § 556.5 of this chapter, the Commission shall notify the issuing tribe of the information.

(b) Upon receipt of such notification under paragraph (a) of this section, a tribe shall immediately suspend the license and shall provide the licensee with written notice of suspension and proposed revocation.

(c) A tribe shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

(d) The right to a revocation hearing shall vest upon receipt of a license or at such earlier time as is determined by tribal law, regulation, and/or policy.

(e) After a revocation hearing, a tribe shall decide to revoke or to reinstate a gaming license. A tribe shall notify the Commission of its decision within 45 days of receiving notification from the Commission pursuant to paragraph (a) of this section.

■ 12. Revise § 558.6 to read as follows:

§ 558.6 Compliance with this part.

All tribal gaming ordinances and ordinance amendments that have been approved by the Chair prior to September 14, 2023, and that reference this part do not need to be amended to comply with this section. All future ordinance submissions, however, must comply.

Edward Simermeyer,
Chairman.

Jean Hovland,
Vice Chair.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2023-0648]

RIN 1625-AA00

Safety Zone; Ohio River, Mile Markers 46 to 46.5, St. Albans, WV

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the City of Nitro Labor Day Fireworks Display occurring on September 3, 2023, on the Kanawha River, Nitro, WV. The safety zone will cover all navigable waters between mile marker 46 and 46.5

to protect personnel, vessels, and the marine environment from potential hazards associated with a fireworks event. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley (COTP) or a designated representative.

DATES: This rule is effective from 9 through 10 p.m. on September 3, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2023–0648 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Chelsea Zimmerman, Marine Safety Unit Huntington, U.S. Coast Guard, telephone 304–733–0198, email Chelsea.M.Zimmerman@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because publishing an NPRM would be impracticable. A safety zone is needed to alleviate safety concerns associated with a fireworks display. It is impracticable to publish an NPRM because we must establish this safety zone by September 3, 2023, and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of

this rule would be impracticable and contrary to the public interest because we must establish the safety zone by September 3, 2023 in order to protect personnel, vessels, and the marine environment from the potential safety hazards associated with a fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Sector Ohio Valley (COTP) has determined that safety needs associated with the City of Nitro Labor Day Fireworks Display on September 3, 2023, present a safety concern. The purpose of this rulemaking is to ensure the safety of the public surrounding regulated area before, during, and after the fireworks event.

IV. Discussion of the Rule

This rule establishes a safety zone that will be enforced from 9 until 10 p.m. on September 3, 2023. The safety zone will cover all navigable waters between mile markers 46 to 46.5 on the Kanawha River. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters during the fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sector Ohio Valley (COTP) in the enforcement of the safety zone.

Persons or vessels seeking to enter the safety zone must request permission from the COTP on VHF–FM channel 16 or by telephone at 1–502–779–5424. If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

The COTP or a designated representative will inform the public of the enforcement times and date for this safety zone through Broadcast Notices to Mariners, Local Notices to Mariners, and/or Safety Marine Information Broadcasts as appropriate.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-day of the regulated area. This rule is limited to the Kanawha River from mile 46 to 46.5 on September 3, 2023, and will be enforced only for a one-hour duration. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 about the regulated area and the rule allows vessels to seek permission to enter the area.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture

Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast

Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a temporary safety zone lasting only one hour on the Kanawha River at mile 41.5 to 42.5 on September 3, 2023. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

■ 2. Add § 165.T08-0648 to read as follows:

§ 165.T08-0648 Safety Zone; Kanawha River, Mile Markers 46 to 46.5, St. Albans, WV.

(a) *Location.* The following area is a safety zone: all navigable waters of the Kanawha River from mile marker 46 to mile marker 46.5, extending the entire width of the river.

(b) *Definitions.* *Designated representative* means a Coast Guard Patrol Commander (PATCOM), including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting

the Captain of the Port Ohio Valley (COTP) in the enforcement of the regulations in this section.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative. The Coast Guard may patrol the event area under the direction of a designated Coast Guard Patrol Commander.

(2) To seek permission to enter, the COTP or the COTP's representative may be contacted on Channel 16 VHF-FM (156.8 MHz) by the call sign "PATCOM", or phone at 1-502-779-5424. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(3) The Patrol Commander may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(4) The Patrol Commander may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property.

(5) The COTP will provide notice of the regulated area through advanced notice via local notice to mariners and broadcast notice to mariners and by on-scene designated representatives.

(d) *Enforcement period.* This section will be enforced from 9 to 10 p.m. on September 3, 2023.

Dated: August 3, 2023.

H.R. Mattern,

Captain, U.S. Coast Guard, Captain of the Port Sector Ohio Valley.

[FR Doc. 2023-17491 Filed 8-14-23; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2023-0669]

RIN 1625-AA00

Safety Zone; Pacific Ocean, Lahaina Boat Basin, Maui, HI—Emergency Operations and Port Recovery

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for